

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARK TILLMAN WALTERS, III,
Plaintiff,

v.

No. CV 10-1070 WJ/CEG

EDDY COUNTY DETENTION
FACILITY;
ROBERT STEWART, Warden;
MIKE INGRAM, Captain,
Defendants.

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER comes before the Court, *sua sponte*, for a recommendation that Plaintiff Mark Tillman Walters, III's, *Prisoner's Civil Rights Complaint*, (Doc. 1), be **DISMISSED WITH PREJUDICE**. This Court reviewed Plaintiff's original complaint pursuant to 28 U.S.C. § 1915(d)(2). The Court found that the complaint lacked sufficient factual information to substantiate its claims and that Plaintiff had therefore failed to state a claim upon which relief may be granted. (Doc. 14 at 3-8). The Court recommended that the complaint be dismissed but that Plaintiff be allowed to amend his complaint and resolve the factual deficiencies identified by the Court. (*Id.*). United States District Judge William P. Johnson adopted the recommendation and Plaintiff was ordered to file an amended complaint within thirty days. (Doc. 16). Plaintiff then filed a *Motion for Leave to File Amended Complaint*, (Doc. 17), which in no way addressed the deficiencies in the original complaint. (Doc. 18 at 1-3). Despite this failure, the Court afforded Plaintiff a final opportunity to file an amended complaint containing sufficient factual information within thirty days. (*Id.* at 3-4). Plaintiff was warned that failure to file an amended complaint would

result in a recommendation that his complaint be dismissed. (*Id.*). The thirty days have now passed and Plaintiff has not filed an amended complaint.

Under Rule 41(b) of the FEDERAL RULES OF CIVIL PROCEDURE, a federal court has authority to dismiss an action for a plaintiff's failure to comply with a court order. See *Gripe v. City of Enid*, 312 F.3d 1184, 1188 (10th Cir. 2002); *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 (10th Cir. 2007). Plaintiff has been afforded multiple opportunities to file an amended complaint which addresses the specific concerns outlined by this Court and by Judge Johnson. Plaintiff has failed to take advantage of those opportunities.

IT IS THEREFORE RECOMMENDED that Plaintiff Mark Tillman Watlers, III's, *Prisoner's Civil Rights Complaint*, (Doc. 1), be **DISMISSED WITH PREJUDICE**.

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). **A party must file any objections with the Clerk of the District Court within the fourteen day period if that party wants to have appellate review of the Proposed Findings and Recommended Disposition. If no objections are filed, no appellate review will be allowed.**



THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE